

Calendar No. 417

106TH CONGRESS }
1st Session

SENATE

{ REPORT
106-224

FASTENER QUALITY ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 795



NOVEMBER 19, 1999.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

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NOVEMBER 19, 1999.—Ordered to be printed

Mr. MCCAIN, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 795]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 795) “A Bill to amend the Fastener Quality Act to strengthen the protection against the sale of mismarked, misrepresented, and counterfeit fasteners and eliminate unnecessary requirements, and for other purposes”, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of the bill, as reported, is to amend the Fastener Quality Act (FQA), 15 U.S.C. 5401 et seq., to strengthen the protection against the sale of mismarked, misrepresented, and counterfeit fasteners and eliminate unnecessary requirements, and for other purposes.

BACKGROUND AND NEEDS

Every year billions of special high-strength bolts, screws, and other fasteners are sold in the United States which carry grade identifications markings. The markings indicate that the fasteners conform with specifications set by consensus standards organizations. These grade-marked fasteners are used in critical applications like highway bridges and aircraft, where failure of a fastener could jeopardize public safety.

The FQA was enacted in 1990 (Public Law 101-592) and applies to all threaded, metallic, through-hardened fasteners, of one-quarter inch diameter or greater, that directly or indirectly reference a

consensus standard. Under the FQA, such fasteners must be tested or documented by a laboratory that is certified by the National Institute of Standards and Technology (NIST).

The FQA was passed in 1990 because a number of incidents of mismarked, substandard, and/or counterfeit fasteners were uncovered and posed a threat to public safety and a risk of equipment and infrastructure failures in both the civilian and military sectors. In addition, Congress was concerned that foreign manufacturers were actively engaged in unfair trade practices that resulted in the dumping of "substandard" fasteners in the U.S. market. Most of the problems were associated with the federal procurement of fasteners at the Defense Industrial Supply Center (DISC) and National Aeronautics and Space Administration (NASA). It was concluded that a substantial number of these substandard fasteners were the result of attempts to undercut legitimate U.S. fastener manufacturers with products that were manufactured specifically to a lesser standard rather than the result of poor manufacturing processes.

Despite the passage of time since its enactment, regulations to carry out the provisions of the FQA have never been implemented, mainly due to the lack of a sufficient number of accredited laboratories to conduct the inspection and testing required by the Act. NIST's most recent rule was published on April 14, 1998, and includes revisions to earlier proposed regulations which reflect legislative changes to the FQA adopted in 1996 as part of the National Technology Transfer and Advancement Act (P.L. 104-113). Since the passage of the FQA in 1990, fastener quality control procedures have evolved substantially from the lot-sampling procedure that forms the basis for the current FQA. NIST attempted to accommodate the new "process control" quality approaches in the April 14 FQA rule. However, fastener manufacturers and major industrial users report that the NIST rule is overly restrictive and does not fully accommodate advances in quality control procedures. The April 14 rule was scheduled to take effect on October 26, 1998.

In August 1998, Congress passed legislation (P.L. 105-234) to delay implementation of regulations under FQA until the later of either June 1, 1999 or 120 days after the Secretary of Commerce reports to Congress on: (1) Changes in fastener manufacturing processes that have occurred since enactment of FQA; (2) a comparison of the Act to other programs that regulate the various categories of fasteners to analyze duplicate requirements amongst the programs; and (3) any further revisions that should be made to the Act due to the reported findings.

Currently, proprietary fasteners of aviation manufacturers are subject to the quality assurance programs of the Federal Aviation Administration (FAA). Under these programs, aviation manufacturers already are required to demonstrate to the FAA that they have a quality control system which ensures that their products, including fasteners, meet design specifications. Therefore, the application of FQA requirements to such fasteners could create duplicative and potentially confusing regulations that would not assist federal efforts in ensuring the safety of the flying public. Furthermore, neither the FAA nor the National Transportation Safety Board is aware of any fatal aviation accidents caused by a substandard pro-

prietary fastener. As a result, P.L. 105–234 is also exempted from certain testing and certification requirements fasteners specifically manufactured or altered for use on an aircraft if the quality and suitability of those fasteners for that use has been approved by the FAA.

The Secretary of Commerce issued the report required under Public Law 105–234 on February 24, 1999, thus making June 24, 1999 the effective enactment date for FQA. In addition to the findings requested, the report also addressed (1) substandard fasteners' current threat to public safety; (2) whether imported fasteners pose the same threat as they were perceived 10 years ago, when the FQA was passed; (3) how the military and other federal agencies have improved their procurement practices since 1990; and (4) concerns expressed by industry about the Act as written.

The report discovered the following:

(1) The percentage of aircraft incidents involving fasteners in the National Transportation Safety Board's database appears to be reasonably low.

(2) The percentage of all fastener-related recalls for the automobile industry appears quite low.

(3) Safety related fastener problems do not appear to be an issue in the nuclear industry.

(4) The U.S. Customs Service is currently investigating a 5 percent noncompliance rate discovered in January–April 1998 as opposed to significantly higher rates in the 1980's.

(5) DISC has checked military inventories over the past 5 years and found no evidence of widespread problems with substandard or mismarked fasteners.

(6) NASA has adopted a parts policy for fasteners for its ten centers concerning procurement policy.

(7) The Department of Commerce found a number of agencies with regulatory authority to impact fasteners, but no agency other than the Department of Commerce has explicit authority to regulate fastener quality.

(8) Mismarked and fraudulent fasteners have appeared in the US marketplace in the 1990's.

(9) The use of quality management systems is a positive trend.

(10) Industry concerns with the current FQA are about type of fasteners covered, cost of implementation, allowance of electronic storage and transmission, and why foreign manufacturers are treated differently under the Act.

The report makes the following recommendations:

(1) Limit the fasteners covered under the Act should be limited to high strength fasteners (those with a minimum tensile strength of 120,000 psi).

(2) Deem fasteners to be FQA compliant if they are made in facilities registered by a Department of Commerce-approved registrar to a quality management system.

(3) Allow electronic transmission and storage of reporting requirements for fasteners.

(4) Amend Title 18 of the U.S. Code to address fraud in private commercial transactions involving fasteners.

(5) Continue to review why the Act treats foreign and domestic manufacturers differently.

This bill, S. 795, amends the FQA to take into consideration the above findings and recommendations before the FQA implementation date of June 24, 1999. The bill would: (1) focus the scope of coverage on high strength grade-marked fasteners; (2) recognize the benefits of advanced quality assurances systems and implicitly encourages all producers to invest in the adoption of such systems; (3) create accountability by requiring fastener producers to imprint a registered insignia on their product; (4) provide traceability by requiring fastener manufacturers to retain documents and/or records generated during the manufacturing and inspection of each lot of fasteners for five years; (5) direct the Department of Commerce to create a mechanism to facilitate the reporting and investigation of suspected cases of international misrepresentation; and (6) define and establish punishments for the international misrepresentation of fasteners.

LEGISLATIVE HISTORY

S. 795 was referred to the Committee on Commerce, Science, and Transportation on April 14, 1999. A hearing on the legislation was held on April 21, 1999. On May 5, 1999, the Committee met in executive session and, by a voice vote, ordered S. 795 to be reported with amendments. An amendment package offered by Senator Hollings makes technical changes, requires importers to maintain a record of conformance similar to that maintained by U.S. manufacturers, and specifies upper limits on the amounts of civil penalties that can be imposed for violations of the different provisions in the Act.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 12, 1999.

Hon. JOHN MCCAIN,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 795, the Fastener Quality Act Amendments Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Hadley (for federal costs) and Keith Mattrick (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 795—Fastener Quality Act Amendments Act of 1999

Summary: The Fastener Quality Act (Public Law 101–592) imposes testing, recordkeeping, and disclosure requirements on manufacturers, distributors, and importers of certain screws, bolts, nuts, studs, and load-bearing washers. S. 795 would change the requirements for certifying documents and accrediting the laboratories that test fasteners. The bill also would increase civil penalties for certain violations of the Fastener Quality Act.

Enacting S. 795 would probably increase collections of civil fines, which are recorded as receipts; therefore, pay-as-you-go procedures would apply. CBO estimates, however, that the amounts of additional receipts would not be significant. CBO estimates that implementing S. 795 would cost the National Institute of Standards and Technology (NIST) less than \$500,000 a year, subject to the availability of appropriated funds.

S. 795 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: S. 795 would increase civil fines for falsifying or misrepresenting records about the quality of fasteners. The bill also would increase civil fines for recklessly or intentionally violating the recordkeeping requirements of the Fastener Quality Act. CBO estimates that additional collections from civil fines would not be significant.

Based on information from NIST, CBO estimates that the agency would spend less than \$500,000 a year to implement the bill. The costs of this legislation fall within budget function 370 (commerce and housing credit).

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. S. 795 would affect receipts by increasing civil fines for certain violations of the Fastener Quality Act. Collections from such fines are likely to be negligible, however, because the federal government would probably not pursue many additional cases under the bill.

Estimated impact on State, local, and tribal governments: S. 795 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimated impact on the private sector: S. 795 contains no new private-sector mandates as defined in UMRA. Under current law, regulations to implement the Fastener Quality Act will go into effect on June 24, 1999. As currently written, those regulations impose testing, certification, insignia, and recordkeeping requirements on manufacturers, distributors, importers, and other private-sector entities in the fastener industry. According to industry sources, the regulations will impose significant costs on those entities. Based on information provided by government and industry sources, CBO estimates that S. 795 would significantly reduce the requirements imposed on the private sector.

Previous CBO estimate: On April 8, 1999, CBO transmitted a cost estimate for H.R. 1183, the Fastener Quality Act Amendments Act of 1999, as ordered reported by the House Committee on

Science on March 25, 1999. Unlike S. 795, H.R. 1183 would not alter civil penalties; therefore, the House bill would not affect receipts.

Estimate prepared by: Federal costs: Mark Hadley; Impact on the private sector: Keith Mattrick.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

Manufacturers, distributors, importers, and users of grade-marked fasteners will be affected by the FQA requirements when they are implemented. The number of affected individuals is substantially reduced when compared to those affected by the existing FQA as passed in 1990. This is due to two factors: (1) S. 795 only applies to 'high strength' fasteners; (2) S. 795 also recognizes existing fastener quality assurance programs for manufacturing processes.

ECONOMIC IMPACT

The number of fasteners covered is limited to a smaller percentage than those covered in the existing FQA. In addition, S. 795 provides exemption for FAA-approved and other types of fasteners manufactured according to fastener quality assurance systems that meet with certain standards. Therefore, those companies producing fasteners that are not subject to the new requirements of the FQA as specified by this bill do not incur any additional cost for compliance.

PRIVACY

This legislation will not have an adverse impact on the privacy of individuals.

PAPERWORK

S. 795, as reported, requires manufacturers and importers of fasteners to retain records of conformance for fasteners for 5 years. These records can be on paper, in photographic form, or in electronic form, as long as the documents can be verified for authenticity. In addition, the bill eliminates the recordation requirement by the Secretary for insignias of private label distributors.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section cites the Act as "The Fastener Quality Act Amendments Act of 1999".

Section 2. Findings and purpose

This section would amend the findings of the Fastener Quality Act (15 U.S.C. 5401) to recognize the changes that have occurred in the fastener industry since passage of the existing FQA in 1990. The reported findings include the significant contribution of the fastener industry to the global economy; the state-of-the-art manufacturing and improved quality assurance systems that fasteners sold in commerce must adhere to; the small number of mismarked, misrepresented, and counterfeit fasteners that are actually sold in the United States; and the multiple criteria that markings on fasteners must satisfy to enable buyers and users to determine the characteristics of individual fasteners.

Section 3. Definitions

This section would include definitions of relevant terms. The definition of “fastener” specifically excludes those that are part of a package containing 100 or fewer fasteners, and those that have been approved by the FAA, manufactured in accordance with a fastener quality assurance system, or manufactured according to a proprietary standard. The definition of “fastener quality assurance system” accommodates those processes that follow international standards, such as the International Organization for Standardization (ISO) Standard 9000, 9001, 9002, and the Aerospace Basic Quality System Standard AS9000.

Section 4. Sale of fasteners

Subsection (a) would repeal sections 4 through 7 of the FQA of 1990 (15 U.S.C. 5403 through 5406).

The revised section (4) would establish rules regarding the sale of fasteners. The general rule is that manufacturers and distributors cannot intentionally misrepresent or falsify information about the lot of fasteners under consideration. This includes the record of conformance, the identification, characteristics, properties, mechanical or performance marks, chemistry, or strength of the lot of fasteners, or the manufacturer’s insignia. In representing or specifying a fastener, if a description references a consensus standard to show that the fastener conforms to particular requirements of the standard or to show that particular requirements of the standard serve as specifications for the fastener, this shall not be construed as the fastener meeting all the requirements of the consensus standard. In cases where fasteners are manufactured solely to consensus standards, if end-of-line testing is required by the standard, then the tests shall be conducted by an accredited laboratory.

Subsection (b) would delay implementation of the use of accredited laboratories for two years from date of enactment of this Act.

Section. 5. Manufacturers’ insignias

This section would redesignate section 8 of the FQA (15 U.S.C. 5407) as section 5, and amend the newly designated section 5 as follows.

Subsection (a) would be amended to establish the general rule that fasteners cannot be offered for sale unless they bear their manufacturer insignias according to applicable consensus standard(s), unless the specifications provide otherwise. The manufac-

turer must comply with the insignia recordation requirements established under subsection (b).

Subsection (b) would be amended to require the Secretary to record only insignias of manufacturers in accordance with Subsection (a) and not private label distributors.

Section 6. Remedies and penalties

This section would redesignate section 9 of the FQA (15 U.S.C. 5408) as section 6, and amends the newly designated section 6 as follows.

Subsection (b)(1) would be amended to specify different maximum amounts of civil penalties for a person who is determined by the Secretary, after notice and an opportunity for a hearing, to have violated certain provisions of the Act. Negligent violation of section 7 or any regulation under section 7 is subject to a maximum civil penalty of \$10,000 for each violation. Gross negligence in violating section 7 or any regulation under section 7 is subject to a maximum civil penalty of \$35,000 for each violation. Reckless or intentional violation of section 7 or any regulation under section 7 is subject to a maximum civil penalty of \$50,000 for each violation. Violation of section 4(a) or any regulation under section 4(a) is subject to a maximum civil penalty of \$50,000 for each violation. Violations of any other provisions of this Act or any other regulations under this Act is subject to a maximum civil penalty of \$25,000 for each violation.

Subsection (b)(3) would be amended to clarify the reference to this subsection.

Subsection (b)(4) would be amended to allow the Secretary to arbitrate civil penalties imposed under this section prior to referral to the Attorney General.

A new paragraph (2) is added to subsection (d) to have the Secretary establish and maintain a hotline system for the reporting of violations of this Act. The Secretary shall also evaluate allegations reported through that system and report any credible allegations to the Attorney General.

Section 7. Recordkeeping requirements

This section would redesignate section 10 of the FQA (15 U.S.C. 5409) as section 7. Subsections (a) and (b) would be deleted and replaced by a provision that requires manufacturers and importers to retain records of conformance for fasteners for 5 years, on paper or photographic or electronic format, as long as authenticity of the documents can be ascertained. Information in these records must be provided upon request from a distributor who has purchased a fastener or a person who has purchased a fastener for use in the production of a commercial product. It is the Committee's understanding that these requirements would be imposed on manufacturers and importers in a similar manner.

Section 8. Relationship to State laws

This section would redesignate section 11 of the FQA (15 U.S.C. 5410) as section 8.

Section 9. Construction

This section would redesignate section 12 of the FQA (15 U.S.C. 5411) as section 9 and amends the newly revised section 9 by striking “in effect on the date of enactment of this Act”.

Section 10. Certification and accreditation

This section would repeal sections 13 and 15 of the FQA (15 U.S.C. 5412 and 5414) and add a new section 10 on “Certification and Accreditation” as follows.

Manufacturing systems that meet or exceed the rigor and reliability required by the ISO/IEC Guide 62 may be certified by the Director as a “fastener quality assurance system” as defined by this Act. The Director must act upon such petition for certification within 180 days after its filing.

Accreditation bodies to accredit third parties that can certify manufacturing systems as described above may be approved by the Director if they provide equal or greater rigor and reliability as compared to ISO/IEC Guide 61. The Director must act upon such petition for approval within 180 days after its filing.

Laboratories that show equal or greater rigor and reliability as compared to ISO/IEC Guide 25 may be accredited by the Director as an “accredited laboratory” as defined by this Act. The Director must act upon such petition for accreditation within 180 days after its filing.

Accreditation bodies to accredit laboratories that provide equal or greater rigor and reliability as compared to ISO/IEC Guide 58 may be approved by the Director. The Director must act upon such petition for approval within 180 days after its filing.

Section 11. Applicability

This section would add a new section 11 at the end of the FQA, specifying that the Act shall be applicable only to fasteners that are fabricated 180 days or more after the date of enactment of this Act. However, if manufacturers or distributors prepare records of conformance for fasteners fabricated before that date, then these records must comply with the requirements of this Act.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in *italic*, existing law in which no change is proposed is shown in *roman*):

FASTENER QUALITY ACT

TITLE 15. COMMERCE AND TRADE

CHAPTER 80. FASTENERS

[SEC. 2. FINDINGS AND PURPOSE.

[15 U.S.C. 5401]

[(a) FINDINGS.—The Congress finds that—

[(1) the American economy uses billions of fasteners each year;

[(2) millions of mismarked, substandard, counterfeit, and other nonconforming fasteners have been sold in commerce to end-users in the United States, and their use has dramatically increased the risk of equipment and infrastructure failures;

[(3) both the military and civilian sectors of the economy have encountered unnecessary, unwarranted, and dangerous equipment and construction failures, as well as extraordinary expenses, as a result of the use of nonconforming fasteners;

[(4) the purchase and use of nonconforming fasteners stem from material misrepresentations about such fasteners made by certain manufacturers, importers, and distributors engaged in commerce;

[(5) current fastener standards of measurement evaluate bolts and other fasteners according to multiple criteria, including strength, hardness, and composition, and provide grade identification markings on fasteners to make the characteristics of individual fasteners clear to purchasers and users;

[(6) current tests required by consensus standards, designed to ensure that fasteners are of standard measure, are adequate and appropriate for use as standards in a program of high-strength fastener testing;

[(7) the lack of traceability of fasteners sold in commerce is a serious impediment to effective quality control efforts; and

[(8) the health and safety of Americans is threatened by the widespread sale in commerce of mismarked, substandard, and counterfeit fasteners, a practice which also harms American manufacturers, importers, and distributors of safe and conforming fasteners, and workers in the American fastener industry.

[(b) PURPOSE.—In order to protect public safety, to deter the introduction of nonconforming fasteners into commerce, to improve the traceability of fasteners in commerce, and generally to provide commercial and governmental customers with greater assurance that fasteners meet stated specifications, it is the purpose of this Act to create procedures for the testing, certification, and distribution of certain fasteners used in commerce within the United States.]

SEC. 2. FINDINGS.

The Congress finds that—

(1) the United States fastener industry is a significant contributor to the global economy, employing thousands of workers in hundreds of communities;

(2) the American economy uses billions of fasteners each year;

(3) state-of-the-art manufacturing and improved quality assurance systems have dramatically improved fastener quality, so virtually all fasteners sold in commerce meet or exceed the consensus standards for the uses to which they are applied;

(4) a small number of mismarked, misrepresented, and counterfeit fasteners do enter commerce in the United States; and

(5) multiple criteria for the identification of fasteners exist, including grade identification markings and manufacturer's in-

signia, to enable purchasers and users of fasteners to accurately evaluate the characteristics of individual fasteners.

[SEC. 3. DEFINITIONS.

[15 U.S.C. 5402]

[As used in this Act, the term—

[(1) “alter” means to alter—

[(A) by through-hardening,

[(B) by electroplating of fasteners, or

[(C) by machining;

[(2) “consensus standards organization” means the American Society for Testing and Materials, American National Standards Institute, American Society of Mechanical Engineers, Society of Automotive Engineers, or any other consensus standard-setting organization determined by the Secretary to have comparable knowledge, expertise, and concern for health and safety in the field for which such organization purports to set standards;

[(3) “container” means any package of fasteners traded in commerce;

[(4) “Director” means the Director of the National Institute of Standards and Technology;

[(5) “fastener” means—

[(A) a—

[(i) screw, nut, bolt, or stud having internal or external threads, or

[(ii) a load-indicating washer, with a nominal diameter of 5 millimeters or greater, in the case of such items described in metric terms, or ¼ inch or greater, in the case of such items described in terms of the English system of measurement, which contains any quantity of metal and is held out as meeting a standard or specification which requires through-hardening,

[(B) a screw, nut, bolt, or stud having internal or external threads which bears a grade identification marking required by a standard or specification, or

[(C) a washer to the extent that it is subject to a standard or specification applicable to a screw, nut, bolt, or stud described in subparagraph (B),

except that such term does not include any screw, nut, bolt, or stud that is produced and marked as ASTM A 307 Grade A or produced in accordance with ASTM F 432;

[(6) “grade identification marking” means any symbol appearing on a fastener purporting to indicate that the fastener’s base material, strength properties, or performance capabilities conform to a specific standard of a consensus standards organization or government agency;

[(7) “importer” means a person located within the United States who contracts for the initial purchase of fasteners manufactured outside the United States for resale or such person’s use within the United States;

[(8) “Institute” means the National Institute of Standards and Technology;

[(9) “lot” means a quantity of fasteners of one part number fabricated by the same production process from the same coil or heat number of metal as provided by the metal manufacturer and submitted for inspection and testing at one time;

[(10) “manufacturer” means a person who fabricates fasteners, or who alters any item so that it becomes a fastener;

[(11) “private label distributor” means a person who contracts with a manufacturer for the fabrication of fasteners bearing the distributor’s distinguishing insignia;

[(12) “Secretary” means the Secretary of Commerce;

[(13) “standard and specifications” means the provisions of a document published by a consensus standards organization or a government agency; and

[(14) “through-harden” means heating above the transformation temperature followed by quenching and tempering for the purpose of achieving a uniform hardness.]

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) “*accredited laboratory*” means a fastener testing facility used to perform end-of-line testing required by a consensus standard or standards to verify that a lot of fasteners conforms to the grade identification marking called for in the consensus standard or standards to which the lot of fasteners has been manufactured, and which—

(A) meets the requirements of ISO/IEC Guide 25, including revisions from time to time, or another document approved by the Director under section 10(c); and

(B) has been accredited by a laboratory accreditation body that meets the requirements of ISO/IEC Guide 58, including revisions from time to time, or another document approved by the Director under section 10(d);

(2) “*consensus standard*” means the provisions of a document that describes fastener characteristics published by a consensus standards organization or a Federal agency, and does not include a proprietary standard;

(3) “*consensus standards organization*” means the American Society for Testing and Materials, the American National Standards Institute, the American Society of Mechanical Engineers, the Society of Automotive Engineers, the International Organization for Standardization, any other organization identified as a United States consensus standards organization or a foreign and international consensus standards organization in the Federal Register at 61 Fed. Reg. 50582–83 (September 26, 1996), and any successor organizations thereto;

(4) “*Director*” means the Director of the National Institute of Standards and Technology;

(5) “*distributor*” means a person who purchases fasteners for the purpose of reselling them at wholesale to unaffiliated persons within the United States, and, for purposes of this paragraph, an original equipment manufacturer and its dealers shall be considered affiliated persons for purposes of this Act;

(6) “*fastener*” means a metallic screw, nut, bolt, or stud having internal or external threads, with a nominal diameter of 6 millimeters or greater, in the case of such items described in

metric terms, or 1/4 inch or greater, in the case of such items described in terms of the English system of measurement, or a load-indicating washer, that is through-hardened or represented as meeting a consensus standard that calls for through-hardening, and that is grade identification marked or represented as meeting a consensus standard that requires grade identification marking, except that such term does not include any screw, nut, bolt, stud, or load-indicating washer that is—

- (A) part of an assembly;*
 - (B) in a package containing no more than 100 of any one screw, nut, bolt, stud, or load-indicating washer at the time of sale;*
 - (C) produced and marked as ASTM A 307 Grade A, or a successor standard thereto;*
 - (D) produced in accordance with ASTM F 432, or a successor standard thereto;*
 - (E) specifically manufactured for use on an aircraft if the quality and suitability of those fasteners for that use has been approved—*
 - (i) by the Federal Aviation Administration; or*
 - (ii) by a foreign airworthiness authority as described in part 21.29, 21.500, 21.502, or 21.617 of title 14 of the Code of Federal Regulations;*
 - (F) manufactured in accordance with a fastener quality assurance system; or*
 - (G) manufactured to a proprietary standard, whether or not such proprietary standard directly or indirectly references a consensus standard or any portion thereof;*
- (7) “fastener quality assurance system” means—*
- (A) a system that meets the requirements, including revisions from time to time, of—*
 - (i) International Organization for Standardization (ISO) Standard 9000, 9001, 9002, or TS16949;*
 - (ii) Quality System (QS) 9000 Standard;*
 - (iii) Verband der Automobilindustrie e. V. (VDA) 6.1 Standard; or*
 - (iv) Aerospace Basic Quality System Standard AS9000; or*
 - (B) any fastener manufacturing system—*
 - (i) that has as a stated goal the prevention of defects through continuous improvement;*
 - (ii) that seeks to attain the goal stated in clause (i) by incorporating—*
 - (I) advance quality planning;*
 - (II) monitoring and control of the manufacturing process;*
 - (III) product verification embodied in a comprehensive written control plan for product and process characteristics, and process controls (including process influence factors and statistical process control), tests, and measurement systems to be used in production; and*

(IV) the creation, maintenance, and retention of electronic, photographic, or paper records required by the control plan regarding the inspections, tests, and measurements performed pursuant to the control plan; and

(iii) that—

(I) is subject to certification in accordance with the requirements of ISO/IEC Guide 62, including revisions from time to time, (or another document approved by the Director under section 10(a)) by a third party who is accredited by an accreditation body in accordance with the requirements of ISO/IEC Guide 61, including revisions from time to time, (or another document approved by the Director under section 10(b)); or

(II) undergoes regular or random evaluation and assessment by the end user or end users of the screws, nuts, bolts, studs, or load-indicating washers produced under such fastener manufacturing system to ensure that such system meets the requirements of clauses (i) and (ii);

(8) “grade identification marking” means any grade-mark or property class symbol appearing on a fastener purporting to indicate that the lot of fasteners conforms to a specific consensus standard, but such term does not include a manufacturer’s insignia or part number;

(9) “importer” means a distributor located within the United States who contracts for the initial purchase of fasteners manufactured outside the United States;

(10) “lot” means a quantity of fasteners of one part number fabricated by the same production process from the same coil or heat number of metal as provided by the metal manufacturer;

(11) “manufacturer” means a person who fabricates fasteners for sale in commerce;

(12) “proprietary standard” means the provisions of a document that describes characteristics of a screw, nut, bolt, stud, or load-indicating washer and is issued by a person who—

(A) uses screws, nuts, bolts, studs, or load-indicating washers in the manufacture, assembly, or servicing of its products; and

(B) with respect to such screws, nuts, bolts, studs, or washers, is a developer and issuer of descriptions that have characteristics similar to consensus standards and that bear such user’s identification;

(13) “record of conformance” means a record or records for each lot of fasteners sold or offered for sale that contains—

(A) the name and address of the manufacturer;

(B) a description of the type of fastener;

(C) the lot number;

(D) the nominal dimensions of the fastener (including diameter and length of bolts or screws), thread form, and class of fit;

(E) the consensus standard or specifications to which the lot of fasteners has been manufactured, including the date,

number, revision, and other information sufficient to identify the particular consensus standard or specifications being referenced;

(F) the chemistry and grade of material; and

(G) the coating material and characteristics and the applicable consensus standard or specifications for such coating; and

(H) the results or a summary of results of any tests performed for the purpose of verifying that a lot of fasteners conforms to its grade identification marking or to the grade identification marking the lot of fasteners is represented to meet;

(14) "represent" means to describe one or more of a fastener's purported characteristics in a document or statement that is transmitted to a purchaser through any medium;

(15) "Secretary" means the Secretary of Commerce;

(16) "specifications" means the required characteristics identified in the contractual agreement with the manufacturer or to which a fastener is otherwise produced, except that the term does not include proprietary standards; and

(17) "through-harden" means heating above the transformation temperature followed by quenching and tempering for the purpose of achieving uniform hardness.

[SEC. 5. TESTING AND CERTIFICATION OF FASTENERS.

[15 U.S.C. 5404]

[(a) REQUIREMENT.—

[(1) No fastener shall be offered for sale or sold in commerce unless it is part of a lot which—

[(A) conforms to the standards and specifications to which the manufacturer represents it has been manufactured; and

[(B) has been inspected, tested, and certified as provided in subsections (b), (c), and (d) of this section.

[(2) (A) Paragraph (1)(B) of this subsection shall not apply to fasteners which are part of a lot of 50 fasteners or less if, within 10 working days after the delivery of such fasteners, or as soon as practicable thereafter—

[(i) inspection, testing, and certification as provided in subsections (b), (c), and (d) is carried out; and

[(ii) written notice detailing the results of such inspection, testing, and certification is sent (I) to all purchasers of such fasteners, except retail sellers and retail consumers, and (II) to any retail seller or retail consumer who, prior to delivery, requests such written notice.

[(B) If a fastener is sold under this paragraph, each purchaser of such fastener, except for retail sellers and retail consumers unless such retail sellers and retail consumers request such notice in advance, shall be provided, contemporaneously with each sale and delivery, written notice stating that such fastener has not yet been inspected, tested, and certified as required by this Act.

[(b) INSPECTION AND TESTING.—

[(1) The manufacturer of a lot of fasteners shall cause to be inspected and tested a representative sample, as provided in paragraph (2) of this subsection, of the fasteners in such lot to determine whether the lot conforms to the standards and specifications to which the manufacturer represents it has been manufactured. Such inspection and testing shall be performed by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6. The standards and specifications to which the manufacturer represents such lot has been manufactured shall be disclosed by the manufacturer to the laboratory at the time the lot is submitted for inspection and testing under this paragraph. The manufacturer of a lot may perform the inspection and testing required by this paragraph in a laboratory which it owns or with which it is otherwise affiliated, if such laboratory is accredited in accordance with the procedures and conditions specified by the Secretary under section 6; unless the Secretary finds that, as to a specific type of fastener and as to a specific type of inspection or testing, a ban on manufacturer ownership or affiliation with the accredited laboratory would increase the protection of health and safety of the public or industrial workers.

[(2) The size, selection, and integrity of the sample to be inspected and tested under paragraph (1) shall be governed—

[(A) by the standards and specifications to which the manufacturer represents the fasteners in the sample have been manufactured; or

[(B) if such standards and specifications do not provide for the size, selection, or integrity of the sample, by sampling procedures prescribed by the Secretary, who shall to the extent practicable use consensus testing standards and related materials.

Nothing in this paragraph shall prohibit a purchaser from requiring the inspection and testing of a greater number of fasteners from a lot than is specified in the applicable standards and specifications or in the applicable sampling procedures prescribed by the Secretary.

[(c) LABORATORY REPORT OF TESTING.—If a laboratory performing the inspection and testing under subsection (b)(1) determines, as to the characteristics selected under the sampling procedures prescribed by the Secretary and based on the sample examined, that a lot conforms to the standards and specifications to which the manufacturer represents it has been manufactured, the laboratory shall provide to the manufacturer a written inspection and testing report with respect to such lot. The report, which shall be in a form prescribed by the Secretary by regulation, shall—

[(1) state the manufacturer's name, the part description, and the lot number and note the grade identification mark and insignia found on the fastener;

[(2) reference the standards and specifications disclosed by the manufacturer with respect to such lot under subsection (b)(1);

[(3) list the markings and characteristics selected under the Secretary's procedures for testing significant characteristics re-

quired by the standards and specifications described in paragraph (2) and specify the results of the inspection and testing under subsection (b)(1);

[(4) except as provided in subsection (d), state whether, based on the samples provided as representative of the lot, such lot has been found after such inspection and testing to conform to such standards and specifications; and

[(5) bear the original signature of a laboratory employee or officer determined by the Secretary to be responsible for the accuracy of the report and of the inspection and testing to which it relates.

[(d) **ALTERNATIVE PROCEDURE FOR CHEMICAL CHARACTERISTICS.**—Notwithstanding the requirements of subsections (b) and (c), a manufacturer shall be deemed to have demonstrated, for purposes of subsection (a)(1), that the chemical characteristics of a lot conform to the standards and specifications to which the manufacturer represents such lot has been manufactured if the following requirements are met:

[(1) The coil or heat number of metal from which such lot was fabricated has been inspected and tested with respect to its chemical characteristics by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6.

[(2) Such laboratory has provided to the manufacturer, either directly or through the metal manufacturer, a written inspection and testing report, which shall be in a form prescribed by the Secretary by regulation, listing the chemical characteristics of such coil or heat number.

[(3) The report described in paragraph (2) indicates that the chemical characteristics of such coil or heat number conform to those required by the standards and specifications to which the manufacturer represents such lot has been manufactured.

[(4) The manufacturer demonstrates that such lot has been fabricated from the coil or heat number of metal to which the report described in paragraphs (2) and (3) relates.

In prescribing the form of report required by subsection (c), the Secretary shall provide for an alternative to the statement required by subsection (c)(4), insofar as such statement pertains to chemical characteristics, for cases in which a manufacturer elects to use the procedure permitted by this subsection.

[SEC. 6. LABORATORY ACCREDITATION.

[15 U.S.C. 5405]

[(a) **ESTABLISHMENT OF ACCREDITATION PROGRAM.**—

[(1) The Secretary, acting through the Director, shall issue regulations which shall include—

[(A) procedures and conditions, including sampling procedures referred to in section 5, for the accreditation by the Institute of laboratories engaged in the inspection and testing of fasteners under section 5;

[(B) procedures and conditions (which shall be consistent with the procedures and conditions established under subparagraph (A)), using to the extent practicable the requirements of national or international consensus

documents intended to govern the operation of accreditation bodies, under which private entities may apply for approval by the Secretary to engage directly in the accreditation of laboratories in accordance with the requirements of this Act; and

[(C) conditions (which shall be consistent with the procedures and conditions established under subparagraph (A)), under which the accreditation of foreign laboratories by their governments or organizations recognized by the Director shall be deemed to satisfy the laboratory accreditation requirements of this section.

[(2) Upon establishing a laboratory accreditation program under paragraph (1), the Secretary shall publish a notice in the Federal Register stating that the Secretary is prepared to accept applications for accreditation of such laboratories.

[(3) No accreditation provided under the terms of this subsection shall be effective for a period of greater than 3 years.

[(b) LABORATORY ACCREDITATION PROCEDURES.—Existing Institute accreditation procedures stated in part 7 of title 15, Code of Federal Regulations, as in effect on the date of enactment of this Act, supplemented as the Secretary considers necessary, shall be used to accredit laboratories under the accreditation program established under subsection (a).

[(c) ENSURING COMPLIANCE.—

[(1) The Secretary shall ensure that—

[(A) private entities accrediting laboratories under procedures and conditions established under subsection (a)(1)(B) comply with such procedures and conditions, and

[(B) laboratories accredited by such private entities, or by foreign governments pursuant to subsection (a)(1)(C), comply with the requirements for such accreditation.

[(2) The Secretary may require any such private entity or laboratory to provide all records and materials that may be necessary to allow the Secretary to carry out this subsection.

[(d) OPERATION OF LABORATORY ACCREDITATION PROGRAM.—

[(1) The Director may hire such contractors as are necessary to carry out the accreditation program established under subsection (a).

[(2) Costs to the Institute and to the Secretary for the establishment and operation of the accreditation program under this section shall be fully reimbursable to the Institute or to the Secretary, as appropriate, through fees or other charges for accreditation services under such program.

[(e) RECOMMENDATIONS TO CONSENSUS STANDARDS ORGANIZATIONS.—The Director shall periodically transmit to appropriate consensus standards organizations any information or recommendations that may be useful in the establishment or application by such organizations of standards and specifications for fasteners.

[SEC. 7. SALE OF FASTENERS SUBSEQUENT TO MANUFACTURE.]

[15 U.S.C. 5406]

[(a) DOMESTICALLY PRODUCED FASTENERS.—It shall be unlawful for a manufacturer to sell any shipment of fasteners covered by

this Act which are manufactured in the United States unless the fasteners—

[(1) have been manufactured according to the requirements of the applicable standards and specifications and have been inspected and tested by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6; and

[(2) an original laboratory testing report described in section 5(c) and a manufacturer's certificate of conformance are on file with the manufacturer, or under such custody as may be prescribed by the Secretary, and available for inspection.

[(b) FASTENERS OF FOREIGN ORIGIN.—

[(1) Except as provided in paragraph (2) of this subsection, it shall be unlawful—

[(A) for any person to sell to any importer, and

[(B) for any importer to purchase,

any shipment of fasteners which are manufactured outside the United States unless delivery of such shipment to such importer is accompanied by a manufacturer's certificate as described in subsection (a), an original laboratory testing report described in section 5(c), with respect to each lot from which such fasteners were taken, and any other relevant lot identification information.

[(2) The requirement under paragraph (1) of this subsection that the delivery of such a shipment to such importer be accompanied by an original laboratory testing report shall not apply in the case of fasteners imported into the United States—

[(A) as products manufactured within a nation which is party to a congressionally-approved free trade agreement with the United States that is in effect, so long as the Secretary certifies that satisfactory arrangements have been reached by which purchasers within the United States can readily gain access to an original laboratory testing report for such fasteners; or

[(B) as Canadian-origin products under the United States-Canada Automobile Pact for use as original equipment in the manufacture of motor vehicles.

[(c) OPTION FOR IMPORTERS AND PRIVATE LABEL DISTRIBUTORS.—

[(1) Notwithstanding section 5(a) and subsections (a) and (b) of this section, delivery of a lot, or portion of a lot, of fasteners may be made to an importer or private label distributor without the required original copy of the laboratory testing report if—

[(A) the manufacturer provides to the importer or private label distributor a manufacturer's certificate certifying that the fasteners have been manufactured according to the requirements of the applicable standards and specifications; and

[(B) the importer or private label distributor assumes responsibility in writing for the inspection and testing of such lot or portion by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6.

[(2) If the importer or private distributor assumes the responsibility in writing for the inspection and testing of such lot or portion, the provisions of section 5(a) and subsections (a) and (b) of this section shall apply to the importer or private label distributor in the same manner and to the same extent as to a manufacturer; except that the importer or private label distributor shall provide to the testing laboratory the manufacturer's certificate described under paragraph (1) of this subsection.]

[(d) ALTERATIONS SUBSEQUENT TO MANUFACTURE.—

[(1) Any person who significantly alters a fastener so that such fastener no longer conforms to the description in the relevant test report issued under section 5(c), and who thereafter offers for sale or sells such altered fastener, shall be treated as a manufacturer for purposes of this Act and shall cause such altered fastener to be inspected and tested under section 5 or this section as though it were newly manufactured, unless delivery of such fastener to the purchaser is accompanied by a written statement noting the original lot number, disclosing the subsequent alteration, and warning that such alteration may affect the dimensional or physical characteristics of the fastener.]

[(2) Any person who knowingly sells an altered fastener and who did not alter such fastener shall provide to the purchaser a copy of the statement required by paragraph (1).]

[(e) COMMINGLING.—It shall be unlawful for any manufacturer, importer, or private label distributor to commingle like fasteners from different lots in the same container, except that such manufacturer, importer, or private label distributor may commingle like fasteners of the same type, grade, and dimension from not more than two tested and certified lots in the same container during repackaging and plating operations. Any container which contains fasteners from two lots shall be conspicuously marked with the lot identification numbers of both lots.]

[(f) SUBSEQUENT PURCHASER.—If a person who purchases fasteners for any purpose so requests either prior to the sale or at the time of sale, the seller shall conspicuously mark the container of the fasteners with the lot number from which such fasteners were taken.]]

SEC. 4. SALE OF FASTENERS.

(a) *GENERAL RULE.*—*It shall be unlawful for a manufacturer or distributor, in conjunction with the sale or offer for sale of fasteners from a single lot, to knowingly misrepresent or falsify—*

- (1) the record of conformance for the lot of fasteners;*
- (2) the identification, characteristics, properties, mechanical or performance marks, chemistry, or strength of the lot of fasteners; or*
- (3) the manufacturer's insignia.*

(b) *REPRESENTATIONS.*—*A direct or indirect reference to a consensus standard to represent that a fastener conforms to particular requirements of the consensus standard shall not be construed as a representation that the fastener meets all the requirements of the consensus standard.*

(c) *SPECIFICATIONS.*—A direct or indirect contractual reference to a consensus standard for the purpose of identifying particular requirements of the consensus standard that serve as specifications shall not be construed to require that the fastener meet all the requirements of the consensus standard.

(d) *USE OF ACCREDITED LABORATORIES.*—In the case of fasteners manufactured solely to a consensus standard or standards, end-of-line testing required by the consensus standard or standards, if any, for the purpose of verifying that a lot of fasteners conforms with the grade identification marking called for in the consensus standard or standards to which the lot of fasteners has been manufactured shall be conducted by an accredited laboratory.

SEC. [8.] 5. MANUFACTURERS' INSIGNIAS.

[15 U.S.C. 5407]

[(a) *GENERAL RULE.*—No fastener which is required by the standards and specifications to which it was manufactured to bear a raised or depressed insignia identifying its manufacturer or private label distributor shall be offered for sale or sold in commerce unless the manufacturer or private label distributor of such fastener has complied with the requirements prescribed by the Secretary in connection with the program established under subsection (b) of this section.]

(a) *GENERAL RULE.*—Unless the specifications provide otherwise, fasteners that are required by the applicable consensus standard or standards to bear insignia identifying their manufacturer shall not be offered for sale or sold in commerce unless—

(1) *the fasteners bear such an insignia; and*

(2) *the manufacturer has complied with the insignia recordation requirements established under subsection (b).*

(b) *RECORDATION.*—The Secretary shall establish, by regulation, a program to provide for the recordation of the insignias of manufacturers [and private label distributors described in subsection (a), to ensure the traceability of a fastener to its manufacturer or private label distributor.] *described in subsection (a).*

SEC. [9.] 6. REMEDIES AND PENALTIES.

[15 U.S.C. 5408]

(a) *CIVIL REMEDIES.*—

(1) The Attorney General may bring an action in an appropriate United States district court for appropriate declaratory and injunctive relief against any person who violates this Act or any regulation under this Act.

(2) An action under paragraph (1) may not be brought more than 10 years after the date on which the cause of action accrues.

(b) *CIVIL PENALTIES.*—

[(1) Any person who is determined by the Secretary, after notice and an opportunity for a hearing, to have violated this Act or any regulation under this Act shall be liable to the United States for a civil penalty of not more than \$ 25,000 for each violation.]

(1) Any person who is determined by the Secretary, after notice and an opportunity for a hearing, to have—

(A) negligently violated section 7 or any regulation under section 7 shall be liable to the United States for a civil penalty of not more than \$10,000 for each violation;

(B) committed gross negligence in violating section 7 or any regulation under section 7 shall be liable to the United States for a civil penalty of not more than \$35,000 for each violation;

(C) recklessly or intentionally violated section 7 or any regulations under section 7 shall be liable to the United States for a civil penalty of not more than \$50,000 for each violation;

(D) violated section 4(a) or any regulation under section 4(a) shall be liable to the United States for a civil penalty of not more than \$50,000 for each violation; or

(E) violated any other provision of this Act or any other regulation under this Act shall be liable to the United States for a civil penalty of not more than \$25,000 for each violation.

(2) The amount of the penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith attempt to achieve compliance, ability to pay the penalty, and such other matters as justice may require.

(3) Any person against whom a civil penalty is assessed under paragraph (2) [of this section] of this subsection may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The findings and order of the Secretary shall be set aside by such court if they are found to be unsupported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(4) The Secretary may *arbitrate*, compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section prior to referral to the Attorney General under paragraph (5).

(5) A civil penalty assessed under this subsection may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(6) For the purpose of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that

are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) CRIMINAL PENALTIES.—

(1) Whoever knowingly certifies, marks, offers for sale, or sells a fastener in violation of this Act or a regulation under this Act shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

(2) Whoever intentionally fails to maintain records relating to a fastener in violation of this Act or a regulation under this Act shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

(3) Whoever negligently fails to maintain records relating to a fastener in violation of this Act or a regulation under this Act shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both.

(d) ENFORCEMENT.—

(1) The Secretary may designate officers or employees of the Department of Commerce to conduct investigations pursuant to this Act. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate to the enforcement of this Act, exercise such authorities as are conferred upon them by other laws of the United States, subject to policies and procedures approved by the Attorney General.

(2) *The Secretary shall establish and maintain a hotline system to facilitate the reporting of alleged violations of this Act, and the Secretary shall evaluate allegations reported through that system and report any credible allegations to the Attorney General.*

SEC. [10.] 7. RECORDKEEPING REQUIREMENTS.

[15 U.S.C. 5409]

[(a) LABORATORIES.—Laboratories which perform inspections and testing under section 5(b) shall retain for 5 years all records concerning the inspection and testing, and certification, of fasteners under section 5.

[(b) Manufacturers, importers, private label distributors, and persons who make significant alterations. Manufacturers, importers, private label distributors, and persons who make significant alterations shall retain for 5 years all records concerning the inspection and testing, and certification, of fasteners under section 5, and shall provide copies of any applicable laboratory testing report or manufacturer's certificate upon request to the subsequent purchaser of fasteners taken from the lot to which such testing report or manufacturer's certificate relates.]

Manufacturers and importers shall retain the record of conformance for fasteners for 5 years, on paper or in photographic or electronic format in a manner that allows for verification of authenticity. Upon request of a distributor who has purchased a fastener, or a person who has purchased a fastener for use in the production of a commercial product, the manufacturer or importer of the fastener shall make available information in the record of conformance to the requester.

SEC. [11.] 8. RELATIONSHIP TO STATE LAWS.

[15 U.S.C. 5410]

Nothing in this Act shall be construed to preempt any rights or causes of action that any buyer may have with respect to any seller of fasteners under the law of any State, except to the extent that the provisions of this Act are in conflict with such State law.

SEC. [12.] 9. CONSTRUCTION.

[15 U.S.C. 5411]

Nothing in this Act shall be construed to limit or otherwise affect the authority of any consensus standards organization to establish, modify, or withdraw any standards and specifications under any other law or authority [in effect on the date of enactment of this Act].

[SEC. 13. REGULATIONS.

[15 U.S.C. 5412]

[The Secretary shall issue such regulations as may be necessary to implement this Act.

* * * * *

[SEC. 15. APPLICABILITY.

[15 U.S.C. 5414]

[(a) TRANSITIONAL RULE.—The requirements of this Act shall be applicable only to fasteners fabricated 180 days or more after the Secretary issues final regulations required under sections 5, 6, and 8, except that the Secretary may extend such time period if the Secretary determines that an insufficient number of laboratories have been accredited to perform the volume of inspection and testing required. Upon any such extension, and every 6 months thereafter during such extension, the Secretary shall submit a report to the Congress explaining the reasons for such extension and the steps being taken to ensure the accreditation of a sufficient number of laboratories.

[(b) AIRCRAFT EXEMPTION.—

[(1) IN GENERAL.—The requirements of this Act shall not apply to fasteners specifically manufactured or altered for use on an aircraft if the quality and suitability of those fasteners for that use has been approved by the Federal Aviation Administration, except as provided in paragraph (2).

[(2) EXCEPTION.—Paragraph (1) shall not apply to fasteners represented by the fastener manufacturer as having been man-

ufactured in conformance with standards or specifications established by a consensus standards organization or a Federal agency other than the Federal Aviation Administration.】

SEC. 10. CERTIFICATION AND ACCREDITATION.

(a) **CERTIFICATION.**—A person publishing a document setting forth guidance or requirements for the certification of manufacturing systems, including fastener manufacturing systems, by an accredited third party may petition the Director to approve such document for use as described in section 3(7)(B)(iii)(I). The Director shall act upon a petition within 180 days after its filing, and shall approve such petition if the document provides equal or greater rigor and reliability as compared to ISO/IEC Guide 62.

(b) **ACCREDITATION.**—A person publishing a document setting forth guidance or requirements for the approval of accreditation bodies to accredit third parties described in subsection (a) may petition the Director to approve such document for use as described in section 3(7)(B)(iii)(I). The Director shall act upon a petition within 180 days after its filing, and shall approve such petition if the document provides equal or greater rigor and reliability as compared to ISO/IEC Guide 61.

(c) **LABORATORY ACCREDITATION.**—A person publishing a document setting forth guidance or requirements for the accreditation of laboratories may petition the Director to approve such document for use as described in section 3(1)(A). The Director shall act upon a petition within 180 days after its filing, and shall approve such petition if the document provides equal or greater rigor and reliability as compared to ISO/IEC Guide 25.

(d) **APPROVAL OF ACCREDITATION BODIES.**—A person publishing a document setting forth guidance or requirements for the approval of accreditation bodies to accredit laboratories may petition the Director to approve such document for use as described in section 3(1)(B). The Director shall act upon a petition within 180 days after its filing, and shall approve such petition if the document provides equal or greater rigor and reliability as compared to ISO/IEC Guide 58.

SEC. 11. APPLICABILITY.

The requirements of this Act shall be applicable only to fasteners fabricated 180 days or more after the date of the enactment of this Act, except that if a manufacturer or distributor of fasteners fabricated before that date prepares a record of conformance for such fasteners, representations about such fasteners shall be subject to the requirements of this Act.